

This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L SECTION 01 OF 04 BRUSSELS 001556

SIPDIS

NOFORN

E.O. 12958: DECL: 04/18/2015

TAGS: [PREL](#) [PGOV](#) [FR](#) [TU](#) [EUN](#) [USEU](#) [BRUSSELS](#)

SUBJECT: WHAT A FRENCH "NON" ON THE EU CONSTITUTION COULD MEAN FOR THE EU

REF: A. PARIS 2663

[1](#)B. PARIS 2604 AND PREVIOUS

[1](#)C. STATE 69923

[1](#)D. USEU TODAY 4/20/2005

Classified By: Rick Holtzapple, PolOff, Reasons 1.4 (B/D)

SUMMARY

[1](#)1. (C) No one can be sure of all the political consequences of a French rejection of the EU Constitution, but it would almost certainly end the document's chances of ever entering into force. While forty days remain before the vote, Embassy Paris (refs A and B) has described the challenges facing the "yes" campaign. Rejection of the treaty by the French (on May 29) or the Dutch (June 1) -- or both -- will be blow to Europe's self-confidence and force the Luxembourg and British Presidencies to spend time on damage control for an issue they hoped they could ignore. We do not believe it will throw the EU into crisis, however, or cause paralysis in EU decision-making. The EU will carry on under the current treaties. Enlargement may be marginally more complicated for the EU, but the impact of "enlargement fatigue" on the EU will not be determined by the fate of the Constitution. Over time, many, if not all, of the changes to the EU proposed in the Constitutional Treaty will likely reappear, perhaps with some modification, in future EU efforts. (Septel provides more detailed analysis of the specific changes the Constitution would make to the EU.)

[1](#)2. (C/NF) In fact, rejection of the Constitution by the French now may be less politically risky for the EU than eventual rejection of the document by the British in 2006. For the U.S., we may face a somewhat distracted and less confident EU in the near term. A French "no" may also reduce talk of multipolarity and building the EU as a counterweight to the U.S. But it would be wrong to interpret the Constitution's demise as the beginning of the end for the EU. As the Europeans have shown in the past, regrouping is likely to ensure continuity on foreign policy decision-making, with member state governments continuing to see the EU as the venue for reaching common policies. For our part, we should note that we do not see the treaty's fate, one way or the other, as prompting a crisis in Europe, and we continue to look to a strong and effective EU as a partner in facing global challenges. END SUMMARY.

NO ONE KNOWS ANYTHING FOR SURE, EXCEPT...

[1](#)3. (C) EU officials in Brussels, following the same events reported in Refs A and B, are increasingly of the view that French voters will reject the EU's proposed Constitution in a referendum on May 29. What would rejection of the Constitution mean for the EU? The most honest answer is the one Italian FM Fini gave the Secretary on April 13 (Ref C): No one knows for sure.

[1](#)4. (SBU) Legally, even after a French no, other member states should continue their ratification procedures. The theory is that EU leaders will need a full picture of how the Constitution fared across the EU's membership prior to taking precise decisions on how to proceed. (At least for now, both the Dutch and UK Prime Ministers have indicated they would go ahead with referenda in their countries.) In October 2006, EU leaders should gather to discuss what to do. Expectations among Brussels officials, however, are that a French no would prompt such a summit much earlier, perhaps even in June or July of this year.

[1](#)5. (SBU) Rejection of the Constitution will not cause institutional paralysis. The EU will continue to function on the basis of the current treaties up through the Nice treaty, which entered into force in February 2003. These treaties, complemented by subsequent accession treaties for enlargement, already spell out all of the necessary technical requirements (number of votes in the Council, number of seats in the European Parliament) to allow the EU to function at 25, or even after Bulgaria and Romania join in 2007 or 2008.

...THIS CONSTITUTION WILL BE DEAD

16. (C) According to most Brussels observers, if France rejects the Constitution, it will be dead. Some member states might well cancel their referendum plans, particularly as it could be hard to generate respectable voter turnout on what would appear to be a lost cause. Even if other member states continue with ratification procedures, a French rejection of the Constitution means it cannot enter into force. While smaller member states (Denmark, Ireland) have been asked to vote again after rejecting earlier treaties, it seems unlikely with France, especially since no one is offering a workable plan on how to make ratification more appealing to the French public. Furthermore, our expectation is that, if all of the EU member states planning referenda did in fact hold them, France would hardly be the lone country to have said no. The Dutch could well follow them just three days later. In short, if the French say no, the Constitution is dead.

17. (C/NF) So then what? The death of the Constitution will surely provoke considerable angst-ridden navel gazing within the EU's political elites and spark endless commentary about whether the "European project" can carry on. But we already detect a counter sentiment developing as people come to grips with the likelihood that the Constitution will not enter into force. Luxembourg's EU PermRep Martine Schommer recently told the Ambassador she expected relatively little fall-out from the Constitution's failure, noting that the EU would continue to function on the basis of the current treaties. The EU will still have some major decisions on its agenda for the rest of 2005: agreeing on its 2007-2013 budgetary framework, opening accession negotiations with Turkey and Croatia, ratifying the accession treaty for Romania and Bulgaria, and continuing to pursue the holy grail: economic reforms to promote growth. The mechanisms needed for the EU to pursue these goals are already in place, and are not dependent on getting the Constitution ratified.

18. (C) The Luxembourg and subsequent UK Presidencies will need to show political skill in managing this agenda, however. We believe their overriding objective will be to downplay as much as possible the political consequences of a No. The issue would likely be added to the agenda of the June 16 EU Summit (European Council) in Brussels, where the other major debate will be on the budget. But we doubt EU leaders will be able to provide a clear picture of how they will proceed so soon after the French and Dutch referenda.

ENLARGEMENT FATIGUE? NOT BECAUSE OF CONSTITUTION

19. (C) Nonetheless, a political "crisis" over the Constitution could make these issues more difficult to move forward, largely because for a while at least, European self-confidence will have taken a knock. After having spent three years work on developing the Constitution, only to see it fail to generate much public support, Europeans may question whether the EU can see ambitious projects through to fruition. It is ironic that such doubts would arise just a year after the successful conclusion of the EU's largest-ever enlargement of ten new members and just a few years after the creation of a single currency, but such questions will be heard.

110. (C) One area where many suggest these political uncertainties could have the greatest impact is on the EU's further enlargement. The rejection of the Constitution should not have any direct impact on the accession of Romania or Bulgaria. Accession negotiations with Turkey, the Balkan states, and such potential candidates as Ukraine could be somewhat more complicated, however. The technical reason is that, without the Constitution's new formulas for Council voting and European Parliament seats, these issues will now need to be specifically negotiated with each new candidate. The political reason is that skepticism about Turkish membership is one factor "no" campaigners are capitalizing on, and a second referendum in France (perhaps in 2015) eventually looms on Ankara's candidacy as a result of the French decision on February 28 to change its own constitution and require that accession to the EU by countries that begin negotiations after June 1, 2005, must be approved by public referendum. On balance, however, a French "no" on the Constitution is unlikely to have any direct short-term impact on Turkish accession talks due to begin with the EU on October 3.

MULTI-SPEED EUROPE? ALREADY EXISTS, AND WE'LL SEE MORE

111. (C) Other commentators have also speculated that frustration over the Constitution's failure could also prompt subsets of EU member states to press ahead with common projects, using the existing "enhanced cooperation" mechanisms in the current treaties to pursue projects even if some member states refuse to join in. This is a more likely outcome of a British no than a French one, since the French

are seen as prime advocates of resort to "enhanced cooperation." But it could still happen, perhaps in areas such as tax harmonization, police cooperation, or combination of diplomatic representation abroad. One area in which it could not legally happen is in military and defense, where the current treaties explicitly prohibit resort to "enhanced cooperation." (NOTE: This does not mean small sets of EU states cannot undertake military projects together; it just means they either have to be approved by all 25, or the project cannot have an EU label or receive support from EU institutions. END NOTE.) Such a development would make the EU even more complicated than today. But "variable geometry" already exists in the EU (the euro, the Schengen common border area, and ESDP all include less than all 25 members), and this does not have to cause huge political problems for the EU.

EUROPEAN PROJECTS NEVER DIE, THEY JUST GET RELABELLED

¶12. (C) While the EU Constitution as such would be dead after a French no, we would stress that this does not mean the specific provisions included in the text will necessarily remain so. As we have reported, several items that are enshrined in the document, do not need changes to the current treaties to be realized. Thus, the European Defense Agency, efforts to improve EU defense capabilities, invocation of "solidarity" in the case of terrorist attack, and moves away from unanimity requirements on asylum and immigration matters are all already underway even in advance of the Constitution.

¶13. (C) Other provisions of the Constitution (creation of an EU Foreign Minister with a combined EU foreign service, a longer-term President of the European Council, expanded legislative powers for the EP, or further moves away from unanimous decision-making by member states) would all be much more difficult to achieve without treaty revision. But that does not mean these or other ideas would disappear. European Political Cooperation sputtered and eventually fizzled out during the 1970's, but was reborn as CFSP in the early 1990's; European Defense Cooperation was rejected -- by the French parliament, no less -- in the 1950's, but reemerged forty years later in the shape of ESDP.

¶14. (C) The Constitution exercise has already seen this dynamic at work: Part II of the Constitution is the EU's Charter of Fundamental Rights that was negotiated in 1999, but which member states could not agree to make a legally binding document at the time. After spending five years as a "political" document, it was simply incorporated verbatim into the Constitution. As these examples demonstrate, the lag times can be considerable, but memories of those building Europe are long. Member state negotiators should store their briefing papers on different aspects of the Constitution in the archives, not shred them.

¶15. (C) It is difficult to predict which provisions of the Constitution would be resurrected when, or precisely how the EU would choose to pursue them. Some EU officials suggest some measures, such as creation of an EU Foreign Minister or combined foreign service could be possible without treaty changes, or only minor ones. Member states could also agree to a much reduced treaty revision exercise in a couple of years to implement some of the institutional provisions (simplification of the legislative procedure, or a new formula for voting). Most governments would then try to ratify this new treaty via parliamentary procedures rather than the more unpredictable referendum. This could pose political problems, but governments might argue that they had listened to voters who objected to the massive and complicated Constitution, and responded by taking a minimalist approach that therefore was not substantive enough to require another referendum. A politically lower-profile strategy would be to write some of these changes into the next Accession Treaty that comes along (for example, with Croatia around 2009). We'd pencil in such a "mini-intergovernmental conference" for late 2006 or early 2007.

A FRENCH "NON" IS BETTER FOR THE EU THAN A BRITISH "NO"

¶16. (C/NF) This cable has focused on the consequences of possible French rejection of the Constitution for the EU as a whole. Of course, even if the French say yes, there is a real risk of one or more other member states rejecting the text. Before poll numbers in France took a dive, most experts would have predicted 24 ratifications and one (British) rejection. But other countries such as the Netherlands, Denmark, the Czech Republic, Poland and even Ireland, might have difficulty ratifying the document, especially after the dispirited conduct of the French campaign. The legal and technical implications of a no from any of these would be the same as those discussed above. But the politics would be very different. While we believe a lone French no will be enough to kill the proposed

Constitution, that would not be the case for a lone rejection by almost any other member state. In that case, we could envision a real political crisis for the EU as it considers how to work around or work over the lone hold-out. In the most extreme scenario, the rest of the EU could consider how to leave behind the reluctant member, probably keeping them within the common market, but excluding them from much else. This would launch a bigger crisis in the EU than a French rejection.

AND FOR THE U.S.? NO GLOATING, PLEASE

17. (C/NF) As President Chirac's comments during his April 14 television appearance (ref B) and Luxembourg PM Juncker's reported comments to French radio on April 19 (ref D) highlight, as the "yes" campaign gets desperate, some will be tempted to "play the American card", claiming that what Washington really wants is for the Constitution to fail and the EU be weakened. We may indeed face a somewhat distracted and less confident EU in the near term. But it would be wrong to interpret the Constitution's demise as the beginning of the end for the EU. A French "no" may reduce talk of multipolarity and building the EU as a counterweight to the U.S. But as the Europeans have shown in the past, regrouping is likely to ensure continuity on foreign policy decision-making, with member state governments continuing to see the EU as the venue for reaching common policies. Conversely, French approval would not mean changes were coming soon, with the British referendum awaiting in 2006, and any implementation only beginning in 2007 at the earliest. Rejection of the document will slow down adoption of these ideas, but it is unlikely to reverse the overall trend of European integration. And so, for our part, we should simply note that the U.S. does not see the treaty's fate, one way or the other, as prompting a crisis in Europe, and we should continue to stress how we look to a strong and effective EU as a partner in facing global challenges.

SCHNABEL

.